

NASW Maryland - 2023 SB 730 FWA - BSWE Sunset Exte

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Position: FWA

**Senate Finance Committee
Senate Bill 730: State Board of Social Work Examiners - Sunset Extension
Support with Amendments**

March 3, 2023

Maryland's Chapter of the National Association of Social Workers represents social workers across the state. We support Senate Bill 730 with amendments. We also request a full sunset review prior to the next extension, based on the constant stream of calls made to the NASW-MD office with concerns and complaints about the Board of Social Work Examiners' processes.

Calls received by the office include how long it takes complaints to be investigated by the Board. When a formal complaint is made against a licensed social worker, it can take a year or more to close. While we want investigations to be thorough, we believe the process can be made more efficient.

We also routinely hear that while the Board is required by statute make a decision about a license application within 60 days, applicants often are notified in those 60 days that their applications are not complete. When the additional documentation is submitted, the 60 day clock starts again.

We believe the Board suffers from being understaffed. We believe the new executive director of the Board is working with Board members and staff to make improvements, but we believe a review of a number of processes is called for.

While we hope to work with the Department of Legislative Services on the review, we believe one change could be made now to help the process. This amendment would require the board to let an applicant know within 10 days of their application is not complete.

Amendment No. 1

§19-303. Health Occupations

(a) To apply for a license, an applicant shall:

- (1) Submit an application to the Board on the form that the Board requires; and
- (2) Pay to the Board the application fee set by the Board.

(b) The Board shall:

- (1) Review each application AND NOTIFY THE APPLICANT WITHIN 10 DAYS IF THE APPLICATION IS COMPLETE OR NOT; and
- (2) Notify each applicant whether the applicant has been approved to take the pertinent licensure examination within 60 days from the date the Board received a completed application from the applicant.

With this amendment, we urge a favorable report.

Respectfully,

Mary Beth DeMartino, LCSW-C
Executive Director

10b - SB 730 - FIN - MDH- LOSWA.docx.pdf

Uploaded by: Megan Peters

Position: FWA



Wes Moore, Governor · Aruna Miller, Lt. Governor · Laura Herrera Scott, M.D., M.P.H., Secretary

March 3, 2023

The Honorable Melony Griffith
Chair, Senate Finance Committee
2 West Miller Senate Office Building
Annapolis, Maryland 21401

RE: SB 730 - State Board of Social Work Examiners – Sunset Extension - Letter of Support with Amendments

Dear Chair Griffith and Committee Members:

The Maryland Department of Health (MDH) respectfully submits this letter of support with amendments for Senate Bill (SB) 730 - State Board of Social Work Examiners – Sunset Extension. SB 730 extends the termination provisions relating to the statutory and regulatory authority of the Board of Social Work Examiners (Board) for three (3) years, until July 1, 2027.

MDH respectfully submits an amendment to shorten the sunset date for the Board from three (3) years to two (2) years. A sunset evaluation and extension is a tool to review existing laws and regulations governing the State's occupational and professional Boards. These reviews facilitate the careful consideration of the Board's purpose and operations, including ensuring that licensing is protecting public health and safety and that licensing is not overly broad or burdensome.¹ Of note, Chapter 511 of the Acts of 2019 eliminated Maryland's automatic 10 year sunset evaluations that were conducted by the Department of Legislative Services prior to extensions.² In its place, sunset evaluations are now conducted only when directed by certain entities.

MDH believes a more thorough evaluation of the Health Occupations Boards is needed at this time to assess ongoing concerns related to licensure, technology, and administrative functions. MDH believes a two (2) year sunset extension allows ample time for MDH and the Boards to examine these functions and return to the General Assembly in 2026 with an update.

If you have any questions please contact Megan Peters, Acting Director, Office of Governmental Affairs, at megan.peters@maryland.gov or (410) 260-3190.

Sincerely,

Laura Herrera Scott, M.D., M.P.H.
Secretary

¹ <https://www.ncsl.org/labor-and-employment/sunset-and-sunrise>

² <https://mgaleg.maryland.gov/mgaweb/Legislation/Details/sb0640?ys=2019RS>

Amendment 1

On page 2, line 3: Strike **2026** and insert **2025**.

10a - SB 730 - FIN - Social Work Bd - SWA.docx.pdf

Uploaded by: State of Maryland (MD)

Position: FWA



Board of Social Work Examiners

Wes Moore, Governor · Aruna Miller, Lt. Governor · Laura Herrera Scott, M.D., M.P.H., Secretary

Karen Richards, Chair – Stanley E. Weinstein, Executive Director
4201 Patterson Avenue, Suite 318 Baltimore MD 21215 Phone: 410-764-4788

2023 SESSION POSITION PAPER

BILL NO: SB 730
COMMITTEE: Finance
POSITION: Support with Amendment

TITLE: State Board of Social Work Examiners – Sunset Extension

BILL ANALYSIS: This bill, as written, would continue the State Board of Social Work Examiners (the “Board”) in accordance with the provision of Maryland Program Evaluation Act (sunset law) by extending the Board’s existence to July 1, 2027.

POSITION AND RATIONALE: The Board supports SB 730 with an amendment.

The Board renews licenses every two years. There are currently 17,578 active, licensed social workers in Maryland. About 2/3 (11,241) of the licensees are licensed as clinical social workers (LCSW-C). Another 1/3 are licensed as graduate social workers (LMSW), many of whom are working toward the LCSW-C credential. Many of the LMSWs and the 320 certified social workers (LCSWs) are practicing generalist or macro social work in a variety of roles throughout our state. We also license social workers at the bachelor’s level and have 438 LBSWs. The passing of this bill will ensure the continuation of the Board’s mission to protect the public from unlicensed and potentially incompetent, unethical social work practice and to promote quality of care in the fields of mental health, child welfare, aging, and many others. The Board accomplishes these objectives by providing licenses to those who meet the statutory requirements, regulating the licensees, overseeing the continuing education process and engaging in the discipline of applicants and licensees when necessary.

The Board supports SB 730 with amendment and respectfully asks to extend the termination provisions relating to the statutory and regulatory authority of the Board, to the following:

Amendment 1

Page 2, line 3: Strike **2027** and insert **2034**.

Thank you for your consideration of this testimony. The Board of Social Work Examiners respectfully requests a favorable report on SB 730 with amendment.

If you require additional information, please contact Dr. Daphne McClellan, Executive Director at (410) 764-4722 or at Daphne.McClellan@maryland.gov.

The opinion of the Board expressed in this document does not necessarily reflect that of the Department of Health or the Administration.

SB 730 Testimony (Opposed) McLauchlin.pdf

Uploaded by: Eric McLauchlin

Position: UNF

**TESTIMONY OF ERIC E. McLAUHLIN, ESQUIRE
(OPPOSED)**

FRIDAY, MARCH 3, 2023

This testimony is offered in opposition of Senate Bill 730 and the additional, unsafe and harmful delay it would allow before the State Board of Social Work Examiners (the “Board”) is again subjected to proper review under the Maryland Program Evaluation Act (§8-401 et seq.). I am opposed to the extension because it will perpetuate immediate, substantial and irreparable harm to patients, licensees and the community for another four (4) years.

The State Board of Social Work Examiners underwent a preliminary evaluation as part of sunset review in 2001, and again in 2011. The result of the 2011 review was a recommendation to extend the termination date by 10 years to July 1, 2024. SB 730 would extend the termination date to July 1, 2027, over four (4) years from now. The specific risk about which my testimony is concerned relates to the investigation of complaints and the disciplinary process.

In 2010, legislation was passed requiring the board to establish a disciplinary subcommittee to be responsible for the investigation of complaints and other aspects of the disciplinary process. During the 2011 review, it was noted, *inter alia*, that the Board had a pre-existing Disciplinary Complaint Review Committee and had already implemented regulations (COMAR 10.42.04.01-.12) in 2002 relating to board hearings and the disclosure of information discovered during investigations to the “appropriate authorities.” Notwithstanding the existence of the additional investigatory structure and regulations implemented over two decades ago, the investigation process and the regulation and administration of it are alarmingly broken and dangerously ineffective.

Since the time of the last review, the Board has been presented with multiple reports of criminal behavior inflicted upon patients by social workers. It has taken no definitive action in response. The current rules and regulations must be reexamined quickly and not be extended, because they allow the subject matter to be downplayed, and allow the investigatory process and its rules to be manipulated.

The type of behavior at issue extends well beyond mere “boundary” violations and on to physical assault and reports of rape. In the 2011 report, the Board labeled these incidents “Other Unprofessional Behavior” and lumped, on average, 27% of its annual complaints into this category. Rape and sexual assault are more than “other.”

In terms of the administration of the investigation of these complaints, the Board failed to communicate with victims, some of whom were minors. It failed to complete investigations for over two (2) years, even when its self-reported “targeted timeframe” for completing investigations is 190 days. It negligently managed its internal processes to the point of improperly accounting for digital evidence and attacking its own investigatory employees instead of accepting responsibility for its administrative mistakes. When investigations were, in fact, completed, the Board in some cases failed to act on them or draw licensing conclusions and bring them to final action.

This testimony is offered to you based on more than anecdotal information. I have been representing victims of social worker abuse. I was therefore asked to participate with a group of professionals who are advocating for change. Change is more likely to come by maintaining the current sunset date of July 1, 2024 and requiring the Board to be accountable by that date than it is by allowing the public to suffer further harm until 2027.

In one circumstance with which I have dealt, there were eleven (11) individual complaints against a specific social worker. This male is alleged to have provided intoxicants to his patients and to have forced them in to sexual acts during sessions. At one point, the Board and its counsel advised me that the nature of the administrative outcome of the investigation in to this licensee's conduct was "immaterial." The Board allowed the licensee to surrender his license rather than make factual findings or work with the "appropriate authorities" to do more. By doing so, the Board retraumatized the victims at issue, and grossly devalued the importance of the process for those victims, their families and the community. The Board took what it perceived to be an easy way out and manipulated its way past the point of accountability.

Doing so was not a mere misunderstanding of the process. Once the Board published its Order accepting the licensee's surrender of his license, it was reminded that COMAR only allows the Board to vote to accept the surrender of a license after the Board has reviewed completed investigative information or reports for each complaint. The Board was asked to confirm that such completed information and reports were reviewed for all eleven (11) cases, and was asked for a copy of the letter of resignation. Rather than respond, the Board removed, revised, backdated and republished a new Order removing reference to the resignation letter being included. In further response to this Board action, the victims asked (through counsel) which date – the new one or old one – would be the proper trigger for their appeal rights. The Board and its counsel never responded. All the while, the victims sat in fear.

There are two, additional significant aspects of these systemic failures that are important to address sooner rather than in 2027. In the 2011 sunset review, the Board noted:

The 2002 sunset evaluation revealed that the number of complaints reported to the board was disproportionately low compared to the number of social workers licensed in the State. Much of this may be due to the delicate nature of the relationship between a social worker and his or her client. In response, the board has tried to educate the public on their right to bring complaints against a social worker and educate social workers to look for possible violations and self-report.

Stated otherwise, the Board represented over a decade ago that it wanted the community and the industry to bring forth more complaints and be more self-regulating. In the cases in which I have been involved, that happened. It was the industry, i.e., other social workers, therapists and medical professionals, who identified sexual abuse and sought to better the industry by definitively addressing it. The lesson for them is that nothing will be done in response. The appearance is that the subject matter is unimportant to the Board. They have concluded that engaging the Board for help is dangerous and harmful. These are reasons for review sooner rather than later.

Second, during the time that the eleven (11) complaints were pending, the licensee at issue continued to practice. We are unable to quantify the additional damage done by him during that time.

My experience with this licensee and his victims is only one example. It is my understanding that as a result of an IT discrepancy that occurred during the last two (2) years, over 30 other complaints have been dismissed and/or not drawn to a conclusion. The 2011 review was replete with references to IT, training and systems that should have prevented a technology travesty of that nature if taken seriously. With an average annual complaint caseload of 125 complaints as reported in 2011, this means the Board negligently handled 24% of its caseload cause it could not handle its own IT properly. That is difficult to explain to victims of abuse and offers them little consolation.

There are immediate deficiencies and dangers that justify requiring the Board to remain accountable to the July 1, 2024 sunset deadline and substantial reasons for requiring the evaluation of the Board well prior to that date. I am therefore opposed to SB 730.

When the evaluation of the Board occurs, it should include specific requirements relating to, among other things:

- Prioritizing complaints based on the nature of the alleged conduct, i.e., administrative v. criminal;
- Assuring the safety of victims and complainants throughout the complaint and investigation process;
- Assuring the avoidance of revictimization and re-traumatization during the complaint and investigation process; and
- Making the Board accountable to coordinate its investigatory processes and authority with those of law enforcement.

Please vote against advancing SB 730.

SB 730 Testimony (Opposed) Roy.pdf

Uploaded by: Eric McLaughlin

Position: UNF

**TESTIMONY OF HEATHER ROY
(OPPOSED)**

FRIDAY, MARCH 3, 2023

Greetings and thank you for this opportunity to present my position of opposition regarding Senate Bill 730. I am a Research Psychologist working in Maryland. I earned my graduate degree in Counseling Psychology from Loyola University Maryland, and I have previous experience as a Licensed Graduate Professional Counselor providing family therapy. I am also a friend who has witnessed the obstacles, barriers, and lack of transparency provided by the Maryland Board of Social Work and Examiners as my friend, Ms. Christie Polley, a Licensed Clinical Professional Counselor (whose oppositional testimony has also been provided), and survivors have offered very serious complaints, including sexual assault of a minor, against a former Maryland LCSW-C. I am also a mother who must consider the safety of her children when making any decisions. It is through these professional and personal lenses that I provide my testimony today.

Given my educational background, I have always viewed therapy as a healthy and safe space. However, given the severity of these complaints, and more importantly to this testimony, the lack of urgency, transparency, and general responsiveness of the Board, has left me alarmed as a professional who has familiarity with these spaces, angry as a friend who has witnessed the lack of justice provided, and deeply disturbed and concerned as a mother who now would carefully question the safety of the spaces therapy may provide to my children.

Without decisive action from the Board, it seems there are very little consequences to such abhorrent and dangerous behaviors, and more importantly protections for those affected. The Board's flawed disciplinary process in response to these serious complaints over the past two years are evidence of an unsafe and unsupportive environment for professionals practicing in this field, clients, and community members.

To approve Senate Bill 730, which to my understanding, would allow the Maryland Board of Social Work to continue operations without an immediate audit or review, would be negligent. I implore you to consider the safety of the community, who when seeking therapy are at their most vulnerable, and I ask you to not only deny Senate Bill 730 but to require an audit of the Maryland Board of Social Work complaint review and disciplinary processes, with the requirement of a written plan with time requirements to address all shortcomings and failures. Without this supportive requirement the Board will not be able to improve their response to complaints and disciplinary process to create the safe space our community demands and deserves.

SB730 Testimony (Opposed) Polley.pdf

Uploaded by: Eric McLaughlin

Position: UNF

Testimony before the Senate

Re: Senate Bill 730

OPPOSITION

March 3, 2023

By Christie Polley, Licensed Clinical Professional Counselor (LCPC)

Thank you for the opportunity to offer testimony in opposition of Senate Bill 730. It is with my personal and professional experience that I suggest that the Maryland Board of Social Work and Examiners disciplinary process should not be continued for another 4 years and instead must be reviewed immediately to make changes that directly protect clients, clinicians, and the community at large. I offer this with my understanding, the board has not experienced a thorough evaluation since 2010, 13 years ago, and has not properly implemented the changes recommended at that time.

My personal experience has taught me that turning to this board for help at a time where you feel fearful and scared is dangerous. This needs to be changed. To that end, an advocacy group of clinicians, attorneys and other professionals who have a direct impact within our community was formed due to an unfortunate experience with the Maryland Board of Social Work and Examiners and the disciplinary process.

My engagement with the board existed between October of 2020 to November of 2022 due to a very complicated and traumatizing situation that included a fellow clinician. He amassed 11 complaints against him. At the start of this experience, I was very optimistic that cooperating with the board and being an advocate for those harmed would bring justice. I believed the board operated with integrity, compassion, and from a trauma-informed viewpoint. I could not have been more wrong.

Instead, the process continued the abuse cycle with re-victimizing and re-traumatizing the complainants and survivors of abuse. Perpetually leaving survivors of these heinous complaints to continuously check the status of the licensee for years with no communication is inexcusable. The level of anxiety and fear when coming forward and filing a complaint is profound, let alone not being at least informed about what is happening. The lack of transparency and no communication regarding heinous crimes being disclosed is unacceptable.

I want to be clear about these complaints. They are mostly criminal in nature, with many of the complainants and witnesses unknowingly corroborating each other's allegations. From my own awareness, these complaints included but are not limited to sexual abuse of a minor, sexual abuse of young women, inappropriate boundary crossing, sexual harassment, retaliation against a contracted clinician, and abandonment of clients. One complaint included asking an intern to buy a pregnancy test for a 14-year-old girl. This complaint came after it was indicated that he sexually abused another 14 year-old girl, allegedly raped a young woman and had a "sexual relationship" with her, inappropriately touched and made sexually inappropriate comments to another woman who he was treating at a sober living home comprised of women, a video surfaced of him sexually harassing another therapist insinuating she take her dress off, voice recording(s) of him sexually abusing a client and having a sexual relationship with her, endless sexual inappropriate comments by many witnesses and clients, and a long history of being fired for sexual comments to coworkers. The list goes on.

After the awareness of these horrific allegations, his license was only briefly suspended for a couple months following an “Indicated” finding that he sexually abused a minor. During the investigation of the 11 complaints, he was able to have full access to more clients with absolutely no restrictions to minors. There was nothing to indicate that he was being investigated for 11 complaints or that new patients or parents of patients should be concerned that he may have sexually abuse minor(s) and other young women.

Would you be okay with walking your child into his office to be seen and not knowing the seriousness of allegations against him? Would you be okay with a loved one seeking therapy and their therapist masturbate to them while they stand there in lingerie? Would you be okay with a therapist asking your daughter, who is in a sober living home, to write down her fantasies so he can masturbate to them when he went home, and inappropriately touching her in session? Would you be okay with not knowing a clinician gave your 14-year-old a pregnancy test?

The evidence is of an abundance, and yet he was able to surrender his license over two years later with no findings or discipline from the board.

The board finally acted in October of 2022 when they accepted his surrender of license. This was seven (7) months *after* he had already provided his letter of surrender in April of 2022. He was able to escape being interviewed for the 11 complaints brought against him, and is now allowed to be within our community with no repercussions, a monster in plain sight.

The decisions of the board are the reasons why abusers can continue to abuse. I see the acceptance of surrender as a means to protect the board from something I am unable to see, and in the process, protecting him from the public knowing the person that he is. Furthermore, it has even been admitted to me that these complaints were so “egregious” that he would have eventually had his license revoked. If they were aware of how shockingly heinous these crimes are with supporting evidence, witnesses and corroboration, why not support the survivors and protect the community? He was protected, not the survivors.

I have asked the board to join in our efforts to listen to our concerns and make changes where necessary. I received no response. So now I am asking you. Please do not pass this bill without revision of the process to protect our children and our community. Do not delay a review of the board.

The following are some immediate changes that need to be addressed:

- Increase in transparency of the complaint process (steps).
- Prioritizing complaints that are criminal in nature and are of high threat to the public.
- Provide information about allegations to the public that are criminal in nature on the boards website and mandate the respondent to disclose this information to future clients.
- Mandate therapists and other mental health professionals to file a complaint upon hearing sex abuse of a therapist to prevent retaliation of complainant and protect other clients.
- Limiting access to treating minor’s while under investigation for complaints that are criminal in nature.
- Providing a parallel investigation with the police department, DSS and states attorney’s office and holding the board accountable in doing so.

To be perfectly honest, the changes that need to be made can be addressed with one decision; make therapy sex abuse a crime, as it should be. We are utilizing the term “boundary violation” to hide the truth; sex abuse and rape. If we were to criminalize this, these crimes would not “slip through the cracks” and all authorities (board, police, states attorney, DSS) can work together in assuring all information is corroborated. We need to stop putting rape and sex abuse under the COMAR regulations of sexual misconduct or boundary violations with clients. It has been profound the number of veteran clinicians who are not aware that this is NOT a crime. We need to call it what it is; a professional in a position of power, utilizing their expertise, to abuse those seeking psychological help. It is absolutely unacceptable and disgusting.

I am a clinician, mother, aunt, sister, cousin, daughter and a member of society who believes that protecting our children and those that are most vulnerable within our community is of utmost importance. Please trust me when I say, passing this bill will only perpetuate abuse and not address the seriousness of this disciplinary process, putting more people in harm’s way. Do you want to be a part of the problem or solution?